

HOUSE BILL NO. 281

INTRODUCED BY M. LINDEEN, BRUEGGEMAN, CYR, DELL, MANGAN, RYAN, SHOCKLEY,
STONINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE GOVERNMENTAL INTERNET INFORMATION
PRIVACY ACT; REQUIRING GOVERNMENTAL ENTITIES THAT PROVIDE AN INTERNET WEBSITE TO
PROVIDE NOTICE OF THE ENTITIES' INFORMATION PRACTICES; AND PROHIBITING THE COLLECTION
OF PERSONALLY IDENTIFIABLE INFORMATION UNLESS ~~USERS ARE PROVIDED AN OPPORTUNITY TO~~
~~PROHIBIT THE DISCLOSURE AND USE OF THE INFORMATION~~ THE WEBSITE OPERATOR COMPLIES WITH
CERTAIN PROVISIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 3 ~~4~~] may be cited as the
"Governmental Internet Information Privacy Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3 ~~4~~], the following
definitions apply:

(1) "Collect" means the gathering of personally identifiable information about a user of an internet
service, online service, or website by or on behalf of the provider or operator of that service or website
by any means, direct or indirect, active or passive, including:

(a) an online request for the information by the provider or operator, regardless of how the
information is transmitted to the provider or operator;

(b) the use of an online service to gather the information; or

(c) tracking or use of any identifying code linked to a user of a service or website, including the
use of cookies.

(2) "Governmental entity" means the state and political subdivisions of the state.

(3) "Government website operator" or "operator" means a governmental entity that operates a
website located on the internet or an online service and that collects or maintains personal information
from or about the users of or visitors to the website or online service or on whose behalf information is

1 collected or maintained.

2 (4) "Internet" means, collectively, the myriad of computer and telecommunications facilities,
3 including equipment and operating software, that comprise the interconnected worldwide network of
4 networks that use the transmission control protocol/internet protocol or any predecessor or successor
5 protocols to communicate information of all kinds by wire or radio.

6 (5) "Online" means any activity regulated by [sections 1 through ~~3~~ 4] that is effected by active
7 or passive use of an internet connection, regardless of the medium by or through which the connection
8 is established.

9 (6) "Personally identifiable information" means individually identifiable information about an
10 individual collected online, including:

11 (a) a first and last name;

12 (b) a residence or other physical address, including a street name and name of a city or town;

13 (c) an e-mail address;

14 (d) a telephone number;

15 (e) a social security number; or

16 (f) unique identifying information that an internet service provider or a government website
17 operator collects and combines with any information described in subsections (6)(a) through (6)(e).

18 (7) "Political subdivision" means any county, city, municipal corporation, school district, or other
19 political subdivision or public corporation.

20 (8) "State" means the state of Montana or any office, department, agency, authority, commission,
21 board, institution, hospital, college, university, or other instrumentality of the state.

22

23 ~~NEW SECTION. Section 3. Collection of personally identifiable information -- requirements --~~
24 ~~penalty. (1) A government website operator may not collect personally identifiable information online from~~
25 ~~a user of the website unless the operator provides:~~

26 ~~(a) notice to the user on the website as required by subsection (2); and~~

27 ~~(b) an opportunity to that user to limit the use for marketing purposes or provides disclosure to~~
28 ~~third parties of personally identifiable information that is not:~~

29 ~~(i) related to the provision of the products or service provided by the website; or~~

30 ~~(ii) required to be disclosed by law.~~

~~———— (2) (a) Notice required by subsection (1) must consist of a statement that informs a user of a website of the following:~~

~~———— (i) the identity of the operator of the website and of any third party whom the operator knowingly permits to collect personally identifiable information from users through the website, including the provision of an electronic means of going to a website operated by the third party;~~

~~———— (ii) a list of the types of personally identifiable information that may be collected online by the operator and the categories of that information that the operator may collect in connection with the user's visit to the website;~~

~~———— (iii) a description of how the operator uses the personally identifiable information, including a statement as to whether that information may be sold, distributed, disclosed, or otherwise made available to third parties for marketing purposes;~~

~~———— (iv) a description of the categories of potential recipients of any personally identifiable information;~~

~~———— (v) whether the user is required to provide personally identifiable information in order to use the website and any other consequences of failure to provide the information;~~

~~———— (vi) a general description of what steps the operator takes to protect the security of personally identifiable information collected online by the operator;~~

~~———— (vii) a description of the means by which a user may elect not to have the user's personally identifiable information used by the operator for marketing purposes or sold, distributed, disclosed, or otherwise made available to a third party, except for:~~

~~———— (A) personally identifiable information related to the provision of the product or service provided by the website; or~~

~~———— (B) personally identifiable information required to be disclosed by law; and~~

~~———— (viii) the address or telephone number at which the user may contact the operator about its information practices and also an electronic means of contacting the operator.~~

~~———— (b) The notice required by subsection (1) must be clear, conspicuous, and easily understood.~~

~~———— (c) The opportunity provided to users to limit use and disclosure of personally identifiable information must be easy to use, easily accessible, and available online.~~

~~———— (3) A violation of this section may give rise to a cause of action for violation of privacy rights.~~

NEW SECTION. SECTION 3. COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION -- REQUIREMENTS. (1)

1 A GOVERNMENT WEBSITE OPERATOR MAY NOT COLLECT PERSONALLY IDENTIFIABLE INFORMATION ONLINE FROM A WEBSITE
2 USER UNLESS THE OPERATOR COMPLIES WITH THE PROVISIONS OF THIS SECTION.

3 (2) A GOVERNMENT WEBSITE OPERATOR SHALL ENSURE THAT THE WEBSITE:

4 (A) IDENTIFIES WHO OPERATES THE WEBSITE;

5 (B) PROVIDES THE ADDRESS AND TELEPHONE NUMBER AT WHICH THE OPERATOR MAY BE CONTACTED AS WELL
6 AS AN ELECTRONIC MEANS FOR CONTACTING THE OPERATOR; AND

7 (C) GENERALLY DESCRIBES THE OPERATOR'S INFORMATION PRACTICES, INCLUDING POLICIES TO PROTECT THE
8 PRIVACY OF THE USER AND THE STEPS TAKEN TO PROTECT THE SECURITY OF THE COLLECTED INFORMATION.

9 (3) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2), IF THE PERSONALLY IDENTIFIABLE INFORMATION MAY
10 BE USED FOR A PURPOSE OTHER THAN THE EXPRESS PURPOSE OF THE WEBSITE OR MAY BE GIVEN OR SOLD TO A THIRD
11 PARTY, EXCEPT AS REQUIRED BY LAW, THEN THE OPERATOR SHALL ENSURE THAT THE WEBSITE INCLUDES:

12 (A) A CLEAR AND CONSPICUOUS NOTICE TO THE USER THAT THE INFORMATION COLLECTED COULD BE USED FOR
13 OTHER THAN THE PURPOSES OF THE WEBSITE;

14 (B) A GENERAL DESCRIPTION OF THE TYPES OF THIRD PARTIES THAT MAY OBTAIN THE INFORMATION; AND

15 (C) A CLEAR, CONSPICUOUS, AND EASILY UNDERSTOOD ONLINE PROCEDURE REQUIRING AN AFFIRMATIVE
16 EXPRESSION OF THE USER'S PERMISSION BEFORE THE INFORMATION IS COLLECTED.

17
18 NEW SECTION. SECTION 4. NO CHANGE OF PRIVACY RIGHT OR PUBLIC RIGHT TO KNOW. [SECTIONS 1
19 THROUGH 4] ARE NOT INTENDED TO EXPAND OR RESTRICT THE INDIVIDUAL RIGHT OF PRIVACY OR THE PUBLIC RIGHT TO
20 KNOW OR TO CHANGE THE RIGHTS AND OBLIGATIONS OF PERSONS, STATE AGENCIES, OR LOCAL GOVERNMENTS THAT ARE
21 OTHERWISE PROVIDED BY LAW.

22
23 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3 4] are intended to be
24 codified as an integral part of Title 2, chapter 17, part 3, and the provisions of Title 2, chapter 17, part
25 3, apply to [sections 1 through 3 4].

26 - END -